

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

File Nos. 1:07-CR-290
1:00-CR-159

JAMES SHYQUAN FLOWERS,

Defendant.

Sentencing
and Supervised Release Violation Hearing

Before

THE HONORABLE ROBERT HOLMES BELL
United States District Judge
August 29, 2008

APPEARANCES

MATTHEW G. BORGULA
Assistant U.S. Attorney
P.O. Box 208
Grand Rapids, MI 49501
Attorney for Plaintiff

MICHAEL J. DUNN
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Attorney for Defendant

Also Present: Anna Pakiela, U.S. Probation Officer

Kevin W. Gaugier, CSR-3065
U.S. District Court Reporter

Grand Rapids, Michigan

August 29, 2008

2:50 p.m.

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P R O C E E D I N G S

THE COURT: We are here in the matter of United States v. James Shyquan Flowers. This is the Court's file -- we'll proceed first with the file to which a guilty plea was tendered on April 14th, that of 1:07-CR-290. In this matter Mr. Borgula represents the United States Attorney's Office and Mr. Dunn represents Mr. Flowers.

On report and recommendation that plea that was tendered on the 14th of April was accepted by this Court on May 12th, and the plea agreement was further accepted by this Court. A presentence report has been prepared in conjunction with this sentencing, and in that presentence report there is also a government's motion for a downward departure, and I believe there is a brief in support of that motion at this time in that case.

Looking at the presentence report as it presently stands, is constituted, are there any corrections, deletions or additions, Mr. Borgula?

MR. BORGULA: No, Your Honor.

1 THE COURT: Mr. Dunn?

2 MR. DUNN: No, Your Honor.

3 THE COURT: Mr. Flowers, have you had a chance to
4 review this presentence report in this matter?

5 DEFENDANT FLOWERS: Yes, sir.

6 THE COURT: Okay. Are you satisfied with the
7 representations that have been provided to you here by Mr.
8 Dunn?

9 DEFENDANT FLOWERS: Yes, sir.

10 THE COURT: Okay. You have a motion for downward
11 departure, Mr. Borgula?

12 MR. BORGULA: Yes, Your Honor. We have filed a
13 motion and brief for a downward departure pursuant to
14 Sentencing Guideline 5K1.1.

15 As I stated in our brief, Your Honor, there are two
16 main reasons why we believe this defendant has provided
17 substantial assistance to the government. The first is that
18 while he originally was uncooperative and, as the presentence
19 report indicates, obstructed justice early on in the
20 investigation, once he was arrested and brought within the
21 custody of the marshals, he immediately cooperated and he
22 provided truthful and credible information to DEA agents.
23 Specifically, he identified at least five individuals from
24 whom he had either purchased or witnessed the distribution and
25 sale of cocaine and crack cocaine. Two of those individuals

1 were already known by the DEA and are presently still targets
2 of the investigation, so we felt that that was substantial
3 assistance with regard to those investigations, and it's
4 possible down the road, we anticipate we may have charges,
5 that he could get a Rule 35 should he either testify in a
6 grand jury or at a trial.

7 THE COURT: Well, I always wonder when you say
8 substantial assistance, but there apparently is no
9 investigation and there's no indictment and there's nothing
10 pending. I don't know how I can evaluate that.

11 MR. BORGULA: There's no indictment pending,
12 although I can represent to the Court that there is an
13 investigation with regard to at least two of the individuals
14 of whom he spoke. The other ones --

15 THE COURT: Is it an investigation that is
16 proceeding and that you anticipate will result in an
17 indictment?

18 MR. BORGULA: Yes. I can't give a timing because I
19 don't have sufficient evidence yet to proceed to the grand
20 jury and present an indictment, but I anticipate based on my
21 experience that's where it's going.

22 The other issue, and this is why I've asked for the
23 brief to be sealed, I would rather not on the open record
24 indicate specifics, but it has to do with a shooting, a recent
25 shooting in the Grand Rapids area.

1 THE COURT: You know, I've heard so much about that
2 that I don't think there's any surprises to anybody on this.
3 I think about every third file I have mentions Brick Yard
4 somewhere, so I don't think that's new. I understand.

5 MR. BORGULA: Okay. So the Court is obviously aware
6 of what he did. I put it in my brief. I'm happy to elaborate
7 if the Court would like.

8 THE COURT: Again, there are no names in the brief
9 or specific dates or anything like that, so I'm not concerned.

10 MR. BORGULA: We're more worried about the specific
11 paper that he obtained and turned over. We're not aware of
12 whether or not the targets know that that's been turned over
13 or not, and that's why I asked the Court for it to be sealed.
14 Other than that there was no other reason, Your Honor.

15 THE COURT: Okay. Thank you.

16 MR. BORGULA: Thank you.

17 THE COURT: Response, Mr. Dunn?

18 MR. DUNN: Thank you very much, Your Honor.

19 I would support the U.S. attorney's request or the
20 assistant U.S. attorney's request. He has more knowledge
21 about this than I do, and my client was very forthcoming when
22 he met with the U.S. attorney and the agents, sir. Thank you.

23 THE COURT: Well, I believe probably a one-year --
24 one-level downward departure is probably appropriate in this
25 case. Again, I've heard so much about a couple of these

1 incidences that I'm a little bit immune to being surprised by
2 what I hear. I suppose if testimony is given under oath in
3 subsequent proceedings, the government has the ability to come
4 forward with a 35(b) motion, at which point the Court can put
5 flesh on the allegations that are here. So a one-level
6 downward departure this Court believes is sufficient.

7 So this matter by the rubric of the sentence
8 guidelines carries an adjusted offense level of 28 and
9 criminal history level of V, I believe. Is that correct?

10 MR. DUNN: That's correct, Your Honor.

11 THE COURT: Your calculations, all right.

12 Would you wish to bring your client to the podium
13 and make remarks first and then have your client make remarks
14 in this matter?

15 MR. DUNN: Thank you very much, Your Honor.

16 May it please the Court. Mr. Flowers is a
17 complicated man. He at times was pretty combative with
18 counsel, but at other times he was extraordinarily helpful.
19 He's a bright young man who's got himself in a world of
20 trouble who was already given a chance by this very Court.

21 I think it's important to open that way in my brief
22 comments to state that if the Court does look around, it can
23 see that there's absolutely nobody here. That is probably Mr.
24 Flowers' fault, but maybe partially not. While he was at the
25 jails, he never received a call, a letter, has no money in his

1 commissary, and has absolutely nobody to come visit him. I'm
2 the only person and one other agent that came to visit him.

3 Maybe we do create our own circumstances in this
4 world. Maybe because of his bad behavior he's driven everyone
5 away. But maybe this is a human being that had such a
6 dysfunctional upbringing and such a broken upbringing that he
7 has no one to call mother, father, sister, spouse, friend, and
8 he's all alone. I mean, most of the time when I talk to him,
9 I get a very -- inside some anger, Your Honor, I get a very,
10 very scared individual who doesn't frankly know any better,
11 who gets out of jail and is out for a short period of time and
12 tries a whole lot of things that he thought he could put
13 together properly while he was in prison and gets out there
14 and they fail like they do with the rest of us, but him, his
15 automatic default is criminal behavior.

16 We certainly have to follow a code of conduct in
17 this society, and so he's here in front of this Court on a
18 very serious charge. But I understand this Court well knows
19 that there are backgrounds that cause people to go in a
20 direction, so I would hope that the Court would certainly
21 consider, as difficult of a man as he is, the upbringing and
22 the lack of support or guidance or counsel that he had
23 throughout his life and the Court would consider that in
24 sentencing, Your Honor. Thank you.

25 THE COURT: Thank you. Thank you. Well said.

1 Mr. Flowers, is there anything you would wish to
2 say?

3 DEFENDANT FLOWERS: Yeah. I'd like to apologize to
4 the Court and my PO, you know. I let her down and, you know,
5 I ain't got no excuses. I mean, I understand my lawyer. He
6 trying to speak up for me, you know. I ain't got no excuses.
7 I just -- I did a bad thing. I should be punished, and I'm
8 sorry.

9 THE COURT: How are we going to conduct ourselves in
10 the future? What's your future going to be, Mr. Flowers?

11 DEFENDANT FLOWERS: Your Honor, like my lawyer, my
12 lawyer asked me that.

13 THE COURT: What do you want to -- what is your
14 hope?

15 DEFENDANT FLOWERS: I'm scared. I'm scared to make
16 any plans. I try. I mean, I didn't get out of prison and
17 plan on doing wrong. I had all kind of goals and stuff. This
18 ain't in my plan. I -- I ain't planned this. You know,
19 everything I did when I got out, it failed, so I mean I just
20 gave up. I mean, my whole life, I mean, I been through a lot,
21 and so whenever something bad happen, I just give up, it seem
22 like, you know.

23 But I didn't plan on selling drugs. You know, I got
24 uncles and aunts that died from drugs. I mean, it ain't
25 something I like doing, you know. I just -- I just got

1 involved in something and it gonna cost me a lot of my life
2 now, you know. Like I said, I ain't got no excuses. I just
3 did something bad.

4 THE COURT: But I think you know that you had a
5 probation officer here that really cared about you and wanted
6 you to succeed. You know that.

7 DEFENDANT FLOWERS: I --

8 THE COURT: And you know Magistrate Judge Carmody,
9 she cared about you when you came in here every month, didn't
10 she?

11 DEFENDANT FLOWERS: Yes, sir.

12 THE COURT: And you know the lady that's running the
13 Moral Reconnaissance --

14 MS. PAKIELA: Ravonne.

15 THE COURT: Ravonne. Ravonne cared about you,
16 didn't she?

17 DEFENDANT FLOWERS: Yes, sir.

18 THE COURT: She wanted you to be successful. Thank
19 you. I keep forgetting her name. So there are people who
20 care about you being successful, aren't there?

21 DEFENDANT FLOWERS: Yes, sir.

22 THE COURT: Now, sometimes in life we don't get the
23 advantages that other people have and we have to look
24 sometimes for places and you have to look for the kind of
25 people that would care about you and would be able to help

1 you. Where would you go if you were out on the street today
2 if you were looking for someone who would care for you and
3 help you? Where could you find somebody like that?

4 DEFENDANT FLOWERS: I ain't got nobody.

5 THE COURT: No idea where you could go?

6 DEFENDANT FLOWERS: I -- I had to beg my mom a lot
7 of times to just let me stay there, so --

8 THE COURT: Just a minute, though. Is there nowhere
9 in the city of Grand Rapids, for instance, that you could go
10 and find somebody that cared about you?

11 DEFENDANT FLOWERS: I ain't from Grand Rapids.

12 THE COURT: Where are you from?

13 DEFENDANT FLOWERS: I'm from Alabama.

14 THE COURT: No, no, but you're here in Grand
15 Rapids. You were here in Grand Rapids when you were here on
16 supervised release.

17 DEFENDANT FLOWERS: The majority of my family is
18 down South, though, Your Honor.

19 THE COURT: But the majority of your family you said
20 isn't capable of really caring for you or loving you, so my
21 question is where would you go?

22 DEFENDANT FLOWERS: Anna asked me that when I first
23 got out, did I want to -- you know, did I feel comfortable
24 staying here or going back home, you know.

25 THE COURT: There are people. There are people,

1 there are agencies, you know. If you showed up at Mel
2 Trotter -- you know where Mel Trotter is. If you showed up at
3 Mel Trotter and walked in the door and said, I need somebody
4 to help me, I got to have help, I have no question in my mind
5 at all but they would refer you to somebody immediately to sit
6 down with you, probably somebody that walked much of the same
7 road that you've walked. You're not the only person in the
8 world that this has ever happened to. You understand that?

9 DEFENDANT FLOWERS: Yes, sir.

10 THE COURT: I think there's sometimes a tendency for
11 us in our depression to think I'm the only one that ever had
12 this happen, but I don't think you are. You've got a lot
13 going for you, but I think somehow you fell into the trap of
14 thinking I'm here all alone and nobody cares and there's
15 nobody that wants me, but I can think of two or three people
16 here that were very concerned about you. I've got all kinds
17 of documents here from even court people who were concerned
18 about your being successful.

19 So I don't think you're all by yourself in this.
20 You may perceive yourself to be, but I don't think you are.
21 And I think what you want to do in the next several years as
22 you get your head together and as you figure out how you're
23 going to live the rest of your life is to figure out, Where do
24 I go?

25 I want to give you two places to go and I'm going to

1 ask you to pick which one would be -- would have people that
2 really care, could really care about you. Would it be at a
3 tavern or a church? Where are you more apt to find people
4 that would care about you?

5 DEFENDANT FLOWERS: I don't know what a tavern is.

6 THE COURT: A bar.

7 DEFENDANT FLOWERS: Oh, a church.

8 THE COURT: A church. Why would you want to -- why
9 would the church be the one? And you made the right
10 selection, but why would that be?

11 DEFENDANT FLOWERS: Well, a church is like a family
12 and they show you love.

13 THE COURT: Exactly. Exactly. And I'm not talking
14 about a denomination; I'm just talking about a church. So you
15 have to -- you kind of got to find it. You kind of got to
16 find it, and I can't tell you where you have to go and I can't
17 tell you how you have to do it, but you've got to find it on
18 your own, because you're 28 years old. Yeah.

19 Mr. Borgula, anything you wish to add?

20 MR. BORGULA: Nothing to add, Your Honor.

21 THE COURT: With the adjusted offense level and the
22 criminal history level that I've articulated here and the
23 requirement of this Court to review Section 3553(a) of the
24 federal sentencing statute, the Court has to look at the
25 history and characteristics of Mr. Flowers who, while a very

1 likeable individual, has committed a serious offense and has
2 committed it repetitively and under situations where people
3 were in a position to provide some help to him. And
4 therefore, the Court finds that the lack of respect for law
5 must be addressed in a promotion and a deterrence and
6 protection of the public. The opportunity for rehabilitation
7 the Court wants to provide to Mr. Flowers with the
8 understanding, of course, that the ability to learn from this
9 programming, the ability to receive the kind of guidance that
10 he needs is really up to you, Mr. Flowers.

11 The sentence of this Court will be that you receive
12 a sentence of 144 months or 12 years in the custody of the
13 Federal Bureau of Prisons with the following three
14 conditions. One is that you receive substance abuse
15 evaluation and treatment. That evaluation will be critical to
16 determine what level of treatment that you receive.

17 Secondly, that you receive vocational/educational
18 training opportunity. I want you to get a skill set. You're
19 intelligent enough that I'm confident that you can learn a
20 skill, learn a trade in the prison system that you can take
21 with you. But you've got to go to the classes. You've got to
22 make that intentional desire to say I want to learn something
23 that I can make money from. You're a strong guy.

24 The third issue, I want you to receive medical care
25 for the symptoms that are related to prior head injuries. I

1 can't quite get my arms -- you have one eye that you're blind
2 in; is that correct? Your right eye or left eye, I can't
3 remember which.

4 DEFENDANT FLOWERS: Left.

5 THE COURT: Left eye. And then you apparently have
6 lots of headaches and difficulties with that. So I'm going to
7 ask the Bureau of Prisons to review that and determine what
8 kind of medication and whether there's some operative
9 procedures which would relieve you of that. We'll see what we
10 can do about that.

11 Supervised release will thereafter be five years
12 with the standard conditions of reporting and remaining
13 law-abiding, with drug testing, obviously, and with no drugs,
14 no alcohol, and no guns. You understand that?

15 DEFENDANT FLOWERS: Yes, sir.

16 THE COURT: Those don't mix. I don't want you
17 anywhere near any of those.

18 I want you to reside only in a facility approved by
19 the probation officer. Now, that means not only the facility
20 when you first are eligible for release, and most likely it
21 will be a halfway house in this case, but throughout the
22 entire five years I want the probation officer to help you
23 make the kind of decisions where you can live in an
24 environment that's the most productive for you and will tell
25 you when you're being in an unproductive environment. I want

1 you gainfully employed or looking for work. No association
2 with anyone using or possessing drugs.

3 DEFENDANT FLOWERS: No, sir.

4 THE COURT: Got to pick different friends. Got to
5 go places where you can find the right kind of people that can
6 be the right kind of influence on you, and you're going to
7 have to be choosy. Sometimes you may have to be by yourself
8 for awhile till you find those kind of people.

9 Mandatory special assessment of \$100 will be imposed
10 in this matter.

11 Do you have a motion as it pertains to the
12 indictment, Mr. Borgula?

13 MR. BORGULA: There was just one count, Your Honor,
14 so there's no counts to be dismissed.

15 THE COURT: I have this as a superseding, but you
16 have it as a regular indictment?

17 MR. BORGULA: I have it as a regular indictment. I
18 don't recall a superseding.

19 THE COURT: Okay. All right. Any legal objection
20 to the sentence imposed, Mr. Borgula?

21 MR. BORGULA: No, Your Honor, thank you.

22 THE COURT: Any legal objection to the sentence
23 imposed, Mr. Dunn?

24 MR. DUNN: No, Your Honor.

25 THE COURT: You have a limited right of appeal from

1 the nature of the plea agreement that was set forth
2 previously. You have ten days in which to file that limited
3 appeal. Those forms have been provided to you. You will be
4 remanded to the custody of the marshal for placement at the
5 appropriate facility, having in mind these specific
6 recommendations and with that credit given for the time that
7 you have served in this matter.

8 Now, I also have here a supervised release violation
9 that is before this Court. I believe the date today has been
10 set for the time to proceed on that supervised release
11 violation. Are you ready to proceed on that matter on behalf
12 of the government?

13 MR. BORGULA: Yes, Your Honor.

14 THE COURT: Okay. Mr. Dunn, are you ready to
15 proceed on that matter?

16 MR. DUNN: Yes, Your Honor. It's my understanding
17 my client is going to admit to the violations, sir.

18 THE COURT: Okay. If you'll raise your right hand.
19 Do you swear to tell the truth, the whole truth, and nothing
20 but the truth in this matter, so help you God?

21 DEFENDANT FLOWERS: Yes, sir.

22 THE COURT: Again, is there anything mentally or
23 physically that would keep you from being able to participate
24 in these proceedings of violation of supervised release?

25 DEFENDANT FLOWERS: No, sir.

1 THE COURT: Have you been advised of these written
2 charges of violation of supervised release and have you had an
3 ample opportunity to discuss these matters with your attorney,
4 Mr. Dunn?

5 DEFENDANT FLOWERS: Yes, I have, sir.

6 THE COURT: Do you understand the right to be
7 represented by him?

8 DEFENDANT FLOWERS: Yes, sir.

9 THE COURT: It's my understanding you are satisfied
10 with his representations of you?

11 DEFENDANT FLOWERS: Yes, sir.

12 THE COURT: What pleas would you wish to enter to
13 these violations?

14 DEFENDANT FLOWERS: Guilty.

15 THE COURT: Do you understand that you are entitled
16 to have a hearing in this matter today to determine if there
17 is sufficient evidence to convict you of violating these terms
18 and conditions of supervised release?

19 DEFENDANT FLOWERS: Yes, sir.

20 THE COURT: You have a right to confront witnesses,
21 the right to call witnesses on your own behalf and compel
22 their attendance, and the right to testify on your own behalf
23 at a hearing.

24 DEFENDANT FLOWERS: Yes, sir.

25 THE COURT: Do you understand no one could comment

1 if you did not, nor could anyone -- could the government ever
2 call you as a witness against yourself?

3 DEFENDANT FLOWERS: I didn't --

4 THE COURT: You understand the government could
5 never call you as a witness against yourself?

6 DEFENDANT FLOWERS: Oh, yes, sir.

7 THE COURT: Has anyone threatened you or coerced you
8 as it pertains to entering guilty pleas to these violations of
9 supervised release?

10 DEFENDANT FLOWERS: No, sir.

11 THE COURT: Anyone made any promises of leniency or
12 prediction of what the sentence would be --

13 DEFENDANT FLOWERS: No, sir.

14 THE COURT: -- if your plea were accepted? Tell me
15 what happened here that you believe makes you guilty of
16 violation of supervised release.

17 DEFENDANT FLOWERS: I did everything that it said.

18 THE COURT: Well, tell me what you did.

19 DEFENDANT FLOWERS: I committed another crime.

20 THE COURT: Tell me what you did.

21 DEFENDANT FLOWERS: I sold drugs.

22 THE COURT: When?

23 DEFENDANT FLOWERS: September 23rd, 2007.

24 THE COURT: Where?

25 DEFENDANT FLOWERS: In Grand Rapids at 310

1 Lexington.

2 THE COURT: What kind of drugs did you sell?

3 DEFENDANT FLOWERS: Crack cocaine.

4 THE COURT: Where did you get the drugs?

5 DEFENDANT FLOWERS: From different people, like a
6 lot of people, different people.

7 THE COURT: What was your purpose in selling?

8 DEFENDANT FLOWERS: The purpose of selling, for
9 money and use.

10 THE COURT: Did you intend to make a profit on the
11 sale of those drugs from what you paid for them?

12 DEFENDANT FLOWERS: Yes, sir.

13 THE COURT: Did you know that was unlawful?

14 DEFENDANT FLOWERS: Yes, sir, I knew.

15 THE COURT: Now, there's an allegation here that you
16 had over \$1,600 on your person at the time you were arrested?

17 DEFENDANT FLOWERS: Yes, sir.

18 THE COURT: Where did that money come from?

19 DEFENDANT FLOWERS: Drugs.

20 THE COURT: You understand that at the time you had
21 that \$1,600 on you that you still owed approximately \$12,000
22 in restitution on your underlying charge?

23 DEFENDANT FLOWERS: Yes, sir.

24 THE COURT: And that you were in arrears; that is,
25 you were behind on your payment of restitution?

1 DEFENDANT FLOWERS: Yes, sir.

2 THE COURT: Do you understand the allegation that
3 alleges here that you did fail to deal honestly and
4 forthrightly with the supervised release officer or the
5 probation officer?

6 DEFENDANT FLOWERS: Yes, I do.

7 THE COURT: What did you do that was dishonest?

8 DEFENDANT FLOWERS: I lied to her.

9 THE COURT: How did you lie to her?

10 DEFENDANT FLOWERS: I told her I was working. I had
11 a dirty urinalysis. I drunk alcohol when I wasn't supposed
12 to. I hung around with -- I hung around with people I
13 shouldn't. I did everything I wasn't supposed to do.

14 THE COURT: Did you have a home computer?

15 DEFENDANT FLOWERS: Yes, sir.

16 THE COURT: Were you doing anything unlawful with
17 that?

18 DEFENDANT FLOWERS: Yes, sir.

19 THE COURT: What were you doing?

20 DEFENDANT FLOWERS: Making check stubs.

21 THE COURT: What was that purpose?

22 DEFENDANT FLOWERS: To make check stubs so I can
23 give to my PO.

24 THE COURT: Any additional questions which should be
25 asked to establish the factual basis for this plea?

1 MR. BORGULA: No, Your Honor. The government's
2 satisfied.

3 THE COURT: Mr. Dunn?

4 MR. DUNN: No, Your Honor.

5 THE COURT: I find the plea is freely and
6 voluntarily entered without promises of leniency or coercion.
7 I find the charges are factually accurate. The defendant is
8 actually guilty and hereby stands convicted.

9 Are there remarks you'd wish to make on behalf of
10 your client at this time in this matter?

11 MR. DUNN: Your Honor, I would only ask the Court,
12 since the Court has such wide latitude in sentencing here with
13 regard to concurrent, consecutive, or partially concurrent and
14 consecutive, I would just hope the Court would consider my
15 previous comments with regards to Mr. Flowers. Thank you.

16 THE COURT: Thank you.

17 Any remarks you would wish to make, Mr. Flowers?

18 DEFENDANT FLOWERS: No, I said enough, sir.

19 THE COURT: Does the government have anything it
20 wishes to say in this matter?

21 MR. BORGULA: No, Your Honor, thank you.

22 THE COURT: Based upon the defendant's violation of
23 supervised release as he has indicated here under oath
24 pursuant to the guilty plea, the Court revokes his supervised
25 release conditions, finding that the nature and circumstances

1 of this subsequent criminal behavior and the high risk of
2 continued behavior and the complete refusal to comply with
3 these conditions of supervised release warrants its
4 revocation.

5 It is the sentence of this Court pursuant to 18
6 United States Code 3583(e)(3) that Mr. Flowers is hereby
7 committed to the custody of the Federal Bureau of Prisons for
8 a term of 36 months with no term of supervised release to
9 follow. Specifically, this Court would require that this
10 sentence be served concurrently with the case numbered
11 1:07-CR-290.

12 You have a right of appeal. You have ten days
13 within which to file that appeal as to this supervised release
14 violation in this matter.

15 Anything else that we should place on the record as
16 it pertains to these two cases at this time, Mr. Borgula?

17 MR. BORGULA: Not from the government, Your Honor,
18 thank you.

19 THE COURT: Mr. Dunn?

20 MR. DUNN: Nothing, Your Honor. Thank you, sir.

21 THE COURT: That's all. Thank you, Mr. Dunn, for
22 your able representation throughout this matter.

23 MR. DUNN: Thank you very much, Your Honor.

24 (Proceedings concluded at 3:17 p.m.)
25

CERTIFICATE OF REPORTER

I, Kevin W. Gaugier, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the within-entitled and numbered cause on the date hereinbefore set forth.

I do further certify that the foregoing transcript was prepared by me.

/s/ Kevin W. Gaugier

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